



February 10, 2000

Mr. Steven D. Monté  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
501 Police & Courts Building  
Dallas, Texas 75201

OR2000-0493

Dear Mr. Monté:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 132062.

The Dallas Police Department (the “department”) received a written request for the internal affairs file on a named police officer. You state that some of the requested information has been released to the requestor. You contend that certain other documents are made confidential under section 261.201 of the Family Code and therefore must be withheld from the public pursuant to section 552.101 of the Government Code.<sup>1</sup>

Section 261.201(a) of the Family Code provides:

The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

---

<sup>1</sup>Section 552.101 of the Government Code protects “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” We note that although you did not request a decision from this office regarding this matter within ten business days following the department’s receipt of the records request, *see* Gov’t Code § 552.301(b), a demonstration that information is deemed confidential by law constitutes a “compelling” interest that overcomes the resulting presumption of openness. *See* Gov’t Code § 552.302; Open Records Decision No. 150 (1977).

(1) a report of alleged or suspected abuse or neglect [of a child] *made under this chapter* and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers *used or developed in an investigation under this chapter* or in providing services as a result of an investigation. [Emphasis added.]

The records at issue consist of police reports, witness statements, and internal police memoranda pertaining to a dispute relating to visitation privileges and alleged violation of a protective order. After reviewing the records before us, we are not persuaded that these records pertain to an investigation of child abuse or neglect under chapter 261 of the Family Code. Consequently, none of the information at issue is made confidential under section 261.201. Because you have raised no other applicable exception to disclosure, the department must release the requested records in their entirety, with the following exceptions.

Section 552.130(a)(1) of the Government Code requires that the department withhold “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state.” Accordingly, the department must withhold all driver’s license numbers appearing in the documents at issue.<sup>2</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

---

<sup>2</sup>We note that some of the records at issue contain individuals’ social security numbers. This office concluded in Open Records Decision No. 622 at 3 (1994) that amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(vii)(I), make confidential any social security number obtained or maintained by any “authorized person” pursuant to any provision of law, enacted on or after October 1, 1990, and that any such social security number is therefore excepted from required public disclosure by section 552.101 of the Government Code, which excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”

It is not apparent to us that the social security numbers contained in the records at issue were obtained or is maintained by the department pursuant to any provision of law enacted on or after October 1, 1990. You have cited no law, nor are we aware of any law, enacted on or after October 1, 1990, that authorizes the department to obtain or maintain a social security number. Therefore, we have no basis for concluding that the social security numbers at issue were obtained or are maintained pursuant to such a statute and are therefore confidential under section 552.101 of the Government Code in conjunction with 405(c)(2)(C)(vii)(I). We caution the department, however, that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Prior to releasing the social security numbers, the department should ensure that these numbers were not obtained nor are maintained by the department pursuant to any provision of law, enacted on or after October 1, 1990.

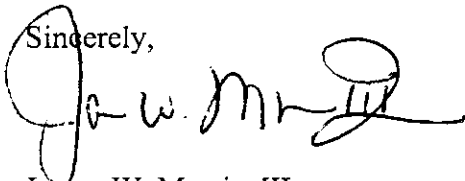
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "J. W. Morris, III". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/RWP/ch

Ref.: ID# 132062

cc: Ms. Pam Isom  
900 Jackson Street, Suite B200  
Dallas, Texas 75202  
(w/o enclosures)